

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2450 - SB 2554

February 21, 2020

**SUMMARY OF BILL:** Enhances the penalty for the offense of aggravated assault involving the use of a deadly weapon when committed by discharging a firearm from within a motor vehicle.

**ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures – \$213,400 Incarceration\***

Assumptions:

*Aggravated Assault*

- Aggravated assault is an assault that results in serious bodily injury to another, death of another, involved the use or display of a deadly weapon, or involved strangulation or attempted strangulation.
- Tennessee Code Annotated § 39-13-102 establishes two classes of aggravated assault offenses: intentional/knowning and reckless. Intentional or knowing aggravated assaults are Class C felonies, and reckless aggravated assaults are prosecuted as Class D felonies.

*Intentional/Knowing Aggravated Assaults*

- The proposed legislation punishes intentional/knowning aggravated assaults involving the use or display of a deadly weapon one classification higher if the offense was committed by discharging a firearm from within a motor vehicle.
- The proposed legislation will result in one intentional/knowning aggravated assault admission being enhanced one classification every 10 years.
- Population growth and recidivism will not impact these admissions.
- According to the DOC, the average operating cost per offender per day for calendar year 2020 is \$75.52.
- The average time served for a Class C felony is 3.50 years. The average time served for a Class B felony is 6.48 years.
- The proposed legislation will result in each admission serving an additional 2.98 years (6.48 - 3.50).
- Pursuant to Tenn. Code Ann. § 9-4-210, one offender will be admitted every 10 years serving an additional 1,088.45 days (2.98 x 365.25). The annualized increase in state incarceration expenditures is estimated to be \$8,220 (\$75.52 x 1,088.45 / 10).

### *Reckless Aggravated Assaults*

- The proposed legislation punishes reckless aggravated assaults involving the use or display of a deadly weapon one classification higher if the offense was committed by discharging a firearm from within a motor vehicle.
- Based on information provided by DOC, there has been an average of 96.8 admissions per year for reckless aggravated assault over last five years.
- The proposed legislation will result in five percent, or 10 admissions ( $96.8 \times 10\% = 10$ ), being enhanced one classification each year.
- According to the DOC, the average operating cost per offender per day for calendar year 2020 is \$75.52.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.81 percent per year for each of the past 10 years (from 2008 to 2018), yielding a projected compound population growth rate of 8.37 percent. Assuming Tennessee's population continues growing by the same rates over the next 10-year period, population growth will account for one ( $10 \times 8.37\%$ ) additional admission for a total of 11 ( $10 + 1$ ).
- According to the DOC, 46.4 percent of offenders will re-offend within three years of their release. A recidivism discount of 46.4 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this legislation. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under the proposed legislation ( $11 \text{ offenders} \times 46.4\% = 5 \text{ offenders}$ ).
- The average time served for a class D felony is 2.26 years. The average time served for a class C felony is 3.50 years. The proposed legislation will result in each admission serving an additional 1.24 years ( $3.50 - 2.26$ ).
- Pursuant to Tenn. Code Ann. § 9-4-210, 6 (11 – 5 recidivism discount) offenders will be admitted every year serving an additional 452.91 days ( $1.24 \times 365.25$ ). The annualized increase in state incarceration expenditures is estimated to be \$205,223 ( $\$75.52 \times 452.91 \times 6$ ).

### *Total Impact to Incarceration and Court System*

- The proposed legislation will result in a recurring increase in state incarceration expenditures estimated to be \$213,443 ( $\$8,220 + \$205,223$ ).
- Any impact to the court system is estimated to be not significant.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The script is cursive and fluid.

Krista Lee Carsner, Executive Director

/amj